



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,834	01/15/2004	Jim Bumgardner	UV-446 Cont	1833
75563	7590	01/11/2008		
ROPES & GRAY LLP PATENT DOCKETING 39/361 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER VENT, JAMIE J	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 01/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

49

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/707,834	BUMGARDNER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jamie Vent	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,6,17 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,17 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/13/07</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on December 13, 2007 was filed after the mailing date of the amendment on September 27, 2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Response to Arguments***

Applicant's arguments filed September 27, 2007 have been fully considered but they are not persuasive. On page 2-3 applicant argue the rejection of the 112 enablement requirement that is presented in the office action. It is noted that the examiner agrees that paragraph 0040 of specification and figure 2 shows various tuners; however, the specification fails to disclose how the system enables the following, "determining a first number of tuners available" as recited in Claim 22 and thereby the 35 U.S.C. 112, first paragraph, rejection is maintained.

On page 3 applicant further argues that Knudson in view of Marsh in view of Watanabe in further view of Berstis fails to disclose, teach, or suggest the following limitation, "Receiving instructions to transfer two or more timeslots on one or more channels to said storage device, a first one of said timeslots including a user extended lead timeslot or a user extended trail timeslot wherein the timeslots are treated as separate entity" as recited in Claim 1. It is shown by Knudson in Figure 3 that various time slots are used throughout the system including user extended and lead timeslots. Furthermore as described in Column 7 Lines 40-57 the timeslots are treated as separate entities for recording purposes. Additionally, applicant argues that the references fail to disclose the following limitation "the conflict is resolved by selecting the first priority as the higher priority such that one of said timeslots is chosen in the first one of said

Art Unit: 2621

timeslots is a user extended trail timeslot, and wherein the conflict is resolved by selecting the second priority as the higher priority such that the second one of said timeslots is chosen if the first one of said timeslots is user extended lead timeslot" as recited in Claim 1. It is taught by Berstis the conflict resolution of recording items based on a priority system as described in Column 8 Lines 57+ through Column 9 Lines 1-18. The system provides the priority of timeslots for recording based on user preferences or if the shoe has an extended timeslot from a previous recording as stated in Column 9 Lines 1-17.

Additionally, applicant argues on pages 4-7 that the cited prior art of record fails to disclose the limitation regarding priority on the first and second time slot. It is taught by Marsh et al wherein timeslots are adjusted in priority as described in Column 10 Lines 1-34 and wherein the priority adjustments are made depending on set priority setting as further seen in Figure 5. Thereby allowing timeslots to record based on priorities that the user sets within the system to insure that the proper programs are recorded. Furthermore, Watanabe et al discloses a recording apparatus wherein a conflict is determined between user selected and automatically selected timeslots as seen in Figure 3 and described in Paragraphs 0074-0075. Furthermore, as seen in Figure 3 a priority is determined based on the varying timeslots and described in paragraphs 0076-0079. The ability to provide conflict resolution based on priority that can be based on whether the potential recording is user or automatic selectable program allows for a more efficient recording system. Although, all of applicants points are understood the examiner can not agree.

### ***Claim Rejections - 35 USC § 112***

Claim 22 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not

described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is described in Claim 22 "determining a first number of tuners available" however, the specification only states that systems are limited by the number of tuners that is available and it is assumed many systems has multiple tuners.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 6, 17, and 22- 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al (US 6,141,488) in view of Marsh et al (US 6,208,799) in further view of Watanabe et al (US 2002/0081096) in further view of Berstis (US 6,564,005).

#### **[claims 1, 3, 17, & 25]**

In regard to Claims 1, 3, 17, and 25, Knudson et al discloses a video recorder which has a method for transferring a broadcast signal to a storage device with an additional computer program comprising:

- Receiving multiple broadcast signals from corresponding multiple channels substantially simultaneously (Figure 1 shows a television distribution center wherein multiple channels are broadcasted simultaneously as disclosed in Column 4 Lines 40+)

- Receiving instructions to transfer two or more timeslots on one or more channels to said storage device, a first one of said timeslots including a user extended lead timeslot or a user extended trail timeslot wherein the timeslots are treated as separate entity (Figure 3 receives various instructions regarding various timeslots and channels from the user who receives information about the timeslots and channels from Figure 2. Furthermore, it is well known in the art that in the recording environment, such as a VCR, allows the user to manually set timeslots due to personal recording preferences. Thereby meeting the limitations of user extended trail and lead timeslots. Additionally, Figure 5 shows the two time slots that are available on channels 4 and 5 respectively. The timeslots are separate entities as they are shown on varying channels and is treated by the system as such as further described in Column 7 Lines 40-57);
- Determining if said instructions cause a conflict (Figure 3 Element 70 a conflict is determined);
- Determining one or more solutions to said conflict, at least partly by considering the multiple broadcast signals (Figure 3 Elements 72, 74, and 76 are solutions to the conflict and further described in Column 2 Lines 45+);
- Providing a user an opportunity to choose one of said solutions to said conflict (Figure 3 Element 72 and 74 allows user to choose solution to conflict); and
- Resolving said conflict automatically, if said user does not choose one of said solutions, by choosing either said first or second timeslot (Figure 3 Element 76 no response from user prompts system to automatically resolve conflict); however, fails to disclose



- the timeslots having a first priority, a second one of said time slots including a core timeslot having a second priority;
- determining if said instructions cause a conflict between automatically-selected timeslots, user-selected timeslots, or both automatically-selected and user-selected timeslots.
- Wherein the conflict is resolved by selecting the first priority as the higher priority such that the first one of said timeslots is chosen if the first one of said timeslots is a user extended trail timeslot, and wherein the conflict is resolved by selecting the second priority as the higher priority such that the second one of said timeslots is chosen if the first one of said timeslots is user extended lead timeslots.

Marsh et al discloses a system wherein timeslots are adjusted in priority as described in Column 10 Lines 1-34. It is further seen the priority adjustments are made depending on set priority setting as further seen in Figure 5. Thereby allowing timeslots to record based on priorities that the user sets within the system to insure that the proper programs are recorded. Watanabe et al discloses a recording apparatus wherein a conflict is determined between user selected and automatically selected timeslots as seen in Figure 3 and described in Paragraphs 0074-0075. Furthermore, as seen in Figure 3 a priority is determined based on the varying timeslots and described in paragraphs 0076-0079. The ability to provide conflict resolution based on priority that can be based on whether the potential recording is user or automatic selectable program allows for a more efficient recording system. Berstis further teaches the system varying conflict resolution. As seen in Figure 10 the priority of shows is based on user priority levels and allows for that particular time slot to be the highest in priority. Furthermore, in Column 8 Lines 57+ through Column 9 Lines 10-17 the priority of the timeslots is further discussed and the higher

Art Unit: 2621

priority signal will be recorded in its entirety, including user extended trail timeslots. This allows for higher priority showing to receive all data to be recorded over less priority recordings and allow for the system to properly manipulate and handle programming data.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the recording system discloses, Knudson et al, and incorporate that timeslots having various priorities, as disclosed by Marsh et al, and further incorporate determining if the instructions cause a conflict, as recited by Watanabe et al, and further incorporate a system that allows the conflicts to have resolutions and priorities, as disclosed by Berstis, to allow for proper manipulation and handling of program data.

**[claim 6]**

In regard to Claim 6, Knudson et al discloses method for transferring a broadcast signal to a storage device, as previously disclosed in Claim 1, with the additional limitation that transferring a broadcast signal to a storage device further comprises:

- Obtaining and examining each timeslot (Figure 7a Element 102);
- Establishing cumulative priority for each of said solutions based on each timeslot (Figure 7a Element 104); and
- Determining and choosing one or two lowest priority solutions to said conflict based on cumulative priority and present to user (Figure 7a Elements 106 and 108).

**[claim 22]**

In regard to Claim 22, Knudson et al discloses a method, as recited in claim 1, wherein said additional step of determining if said instructions cause a conflict further comprises:

- determining a first number of tuners available (Column 5 Lines 12-30 describes the tuner availability);



- determining a second number of timeslots to be transferred to said storage device (Figure 3 receives various instructions regarding various timeslots and channels from the user who receives information about the timeslots and channels from Figure 2 thereby determining additional timeslots to be transferred to the storage device as described in Column 7 Lines 40+);
- determining if a conflict exists, if said first number is less than said second number, wherein if the first number is less than the second number, a number of timeslots equal to the number of timeslots exceeding the number of tuners is transferred to a system queue (Figure 4 shows a conflict in recording between channel 4 and 5. It is determined that the first program Figure 4 element 82 has less priority (a lesser number) over element 84 therefore, allowing the second program to record the entire program as seen in Figure 5 elements 86 and 88 and described in Column 7 Lines 58-67 and Column 8 Lines 1-5);;

**[claims 23 & 24]**

In regard to Claims 23 and 24, Knudson et al view of Marsh et al in further view of Watanabe et al discloses a video recorder as recited in Claim 1; however, fails to disclose the means for providing a system queue, wherein the system queue, wherein the system queue receives one of the first timeslot or the second timeslot that is not used to solve said conflict. It is taught by Berstis in Figure 10 that a queue of available programs for recording is used to determine the next available program to record or process. This features allows for proper streaming and manipulation of program data based on conflict resolution. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the video recording system, as disclosed by Knudson et al view of Marsh et al in further view of Watanabe et al,

and teach the system to provide a programming queue, as taught by Berstis, to provide proper and efficient programming information.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to hot

whose telephone number is 571-272-7384. The examiner can normally be reached on 7:30am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. Effective July 15, 2005, the

Art Unit: 2621

Central Fax Number will change to 571-273-8300. Faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamie Vent



**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**